

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

JAMES and ALYSSA BURKE,	)	3:13-cv-00017-LRH-WGC
	)	
Plaintiffs,	)	<b><u>MINUTES OF PROCEEDINGS</u></b>
	)	
vs.	)	January 31, 2014
	)	
USF REDDAWAY, INC.,	)	
	)	
Defendant.	)	
	)	

PRESENT: THE HONORABLE WILLIAM G. COBB, U.S. MAGISTRATE JUDGE

DEPUTY CLERK: Katie Lynn Ogden REPORTER: \_\_\_\_\_ FTR

COUNSEL FOR PLAINTIFF(S): Douglas Rochen (Telephonically)

COUNSEL FOR DEFENDANT(S): Austin Oyler (Telephonically) and Jacey Prupas (Present)

**MINUTES OF PROCEEDINGS: Motion Hearing**

1:32 p.m. Court convenes.

**I. Plaintiff's Emergency Motion to Strike Defendant's Disclosure of Rebuttal Experts and to Bar Defendant's Rebuttal Expert Brian K. Jones from Testifying at Trial (Doc. # 67)**

Before the court is plaintiff's *Emergency Motion to Strike Defendant's Disclosure of Rebuttal Experts and to Bar Defendant's Rebuttal Expert Brian K. Jones from Testifying at Trial* (Doc. # 67). The court is in receipt of and has reviewed defendant's opposition to the emergency motion (Doc. # 73) and plaintiff's reply brief (Doc. # 75).

The court hears oral argument regarding plaintiff's emergency motion to strike.

The court embraces Magistrate Judge Cooke's approach in *Laflamme v. Safeway, Inc.*<sup>1</sup> to analyze the issues presented by the instant motion as well as the conclusions relating to the expert reports. The court finds Brian K. Jones' expert report is a legitimate rebuttal report. Furthermore, the court finds defendant's rebuttal witness speaks to the same subject matter as the plaintiff's initial experts. Additionally, it does not appear any new or novel arguments are being introduced by the rebuttal witness. Finally, the court finds defendant's testimony is proper under

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<sup>1</sup>*Laflamme v. Safeway, Inc.*, No 3:09-cv-00514-ECR-VPC, 2010 WL 3522378 (D. Nev. Sept. 2, 2010).

**MINUTES OF PROCEEDINGS**

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Fed. R. Civ. P. 26(a)(2)(D)(ii).

Therefore, plaintiff's *Emergency Motion to Strike Defendant's Disclosure of Rebuttal Experts and to Bar Defendant's Rebuttal Expert Brian K. Jones from Testifying at Trial* (Doc. # 67) is **DENIED**.

**II. Revised Discovery Deadlines**

- Discovery/Depositions of any experts/rebuttal experts deadline: March 7, 2014;
- Dispositive Motions deadline: April 11, 2014;
- Joint Pretrial Order deadline: April 30, 2014. In the event dispositive motions are filed, the date for filing the joint pretrial order shall be suspended until 30 days after the decision on the dispositive motions or until further order of the court.

2:01 p.m. Court adjourns.

**IT IS SO ORDERED.**

LANCE S. WILSON, CLERK

By: \_\_\_\_\_ /s/  
Katie Lynn Ogden, Deputy Clerk